IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 115 OF 1991
IN
WRIT PETITION NO. 1575 OF 1987

Manohar Ganpatrao Kapsikar .. Petitioner.

V/s.

1. The State of Maharashtra & Anr. .. Respondents.

Mr.Manohar G.Kapsikar in person-present.

Mr.D.A.Patil, AGP for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : 24th JULY, 2007.

P.C. :-

. The petitioner has a grievance about non-compliance of the order of this court dated 15.10.1987. On that date, this court granted interim stay in terms of prayer clause (c). As a result, this court intended to stay the order reverting the petitioner from the post of Executive Engineer to the post of Dy. Engineer. However, according to the petitioner this order was not complied with by the respondents, who did not give posting to the petitioner in the post of Executive Engineer inspite of the said order of this court. On the other hand, they gave him

posting as a Dy. Engineer.

2. The learned Assistant Government Pleader points out that this court did not grant any interim relief in terms of prayer clause (e), which directs the respondents to allow the petitioner to resume duties as an Executive Engineer. The learned AGP further submits that as soon as the Chief Engineer realised that this court had granted stay to the reversion of the petitioner, the posting order of the petitioner as Dy. Engineer was stayed on 05.12.1987. That order is annexed as Exh.R-2. The respondents thus submitted that there was a bonafide mistake and they did not intend to commit any contempt of this court. There seems to be some substance in the contention of the respondents that there was no intention to commit contempt of this court. But it is necessary to notice the lack of vigilance on the part of the petitioner in pursuing this matter.

3. Admittedly, the petitioner moved this contempt petition in the year 1988 and thereafter, this contempt petition was transferred to Mumbai some time in the year 1990. According to the petitioner then the matter was referred wrongly to the Maharashtra Administrative Tribunal. However, it is clear from the record that the petition was transferred to this court in the year 1991.

The petitioner has made no attempt to move this court thereafter and ultimately the petitioner has appeared in this matter only because this court issued a notice, calling upon him to appear. In the circumstances merely because the petition for contempt was filed within a period of one year, the lack of diligence on the part of the petitioner cannot be justified particularly, when the matter relates to contempt of court.

4. In any case, having regard to the circumstances in which the order was passed and the circumstances in which, according to the petitioner, it was not complied with and having regard to the fact that the respondents have withdrawn the offending order upon realising the mistake, there is no case for contempt of court is made out. Thus the contempt petition is dismissed.

(S.A.BOBDE,J.)

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